



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE
SERVICES

March 27, 2013

William J. Casey, Esq.
Watson Bennett Colligan & Schechter LLP
12 Fountain Plaza, Suite 600
Buffalo, New York 14202

Dear Mr. Casey:

This is in response to your letter to me dated October 2, 2012 asking for clarification of specific requirements in Part B of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 CFR Part 300. On December 17, 2012, Rebecca Walawender, Deputy Director of the Monitoring and State Improvement Planning Division in the Office of Special Education Programs (OSEP), held a conference call with you to clarify the question posed in your letter. You ask:

Would it be inconsistent with the requirements of 20 U.S.C. 1415(f)(1)(B) [and] 34 C.F.R. §300.510(a) (or any other rules and regulations of the IDEA) for an LEA [local educational agency] to convene a resolution meeting, but at such meeting refuse to discuss the issues raised in a parent's due process complaint and instead only offer to convene an IEP [individualized education program] Team meeting as the only forum where parent's issues will be addressed?

Based on your letter and conversation with Ms. Walawender, I understand that your firm's client, the parent of a child with a disability and party to a due process complaint filed consistent with the procedures in 34 CFR §§300.507 through 300.515, and her attorney, attended a resolution session convened by the LEA. At the resolution meeting, you allege that the LEA refused to discuss the issues raised in the parent's due process complaint and informed the parent that she would have to request an IEP Team meeting to discuss the issues raised in the parent's due process complaint.

It is not generally OSEP's practice to comment on matters that are the subject of a due process complaint or due process hearing; further, OSEP expresses no view as to the accuracy of the facts alleged in your inquiry. However, LEAs must comply with the statutory and regulatory provisions cited in your inquiry in conducting resolution meetings pursuant to 20 U.S.C. 1415(f)(1)(B) and 34 CFR §300.510. Pursuant to 34 CFR §300.510(a)(2), the purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute

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that is the basis for the due process complaint. Therefore, when the LEA convenes a resolution meeting with the parent and other required participants, and in the absence of a written agreement that the resolution meeting need not be held, it would be inconsistent with the requirements in 34 CFR §300.510(a)(2) regarding the purpose of the resolution meeting for the LEA to refuse to discuss the issues raised in the parent’s due process complaint during that meeting.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U. S. Department of Education of the IDEA in the context of the specific facts presented.

If you have further questions, please do not hesitate to contact Rebecca Walawender at 202-245-7399 or by email at Rebecca.Walawender@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal line extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

cc: State Director of Special Education